1901-043 Chancery Causes: Martha Robbins vs. Admr. of Franklin P. Robbins & Lee Co.

Flanary, Moor, Moore, Hoover, Smith

CA-Estate Dispute
T-Property

To the Hon. H.A.W. Skeen, Judge of the Circuit Court for Lee County:

Humbly complaining, your oratrix, Martha Robbins, would respectfully represent unto your honor, that her husband Franklin P. Robbins by the hands of a murderer departed this life on the day of May, 1899 intestate; that previous to his death, to-wit, on the day of Oct., 1895, the said Franklin P. Robbins conveyed and deeded to your oratrix all his estate, both real and personal; that at the time of this conveyance he had a small personal estate, consisting of some hogs, sheep, cattle and horses; that whatever estate he had at that time, and all its accretions, rents and profits belong now to your oratrix; that said deed was delivered to yout oratrix, and she by virtue of the same took all his property he then owned and used and claimed it as her own, a copy of which deed is here filed as an part of this bill, marked "D", and prayed to be taken in connection herewith.

Your oratrix will further show unto your honor that in June 1897 and June 1898, her father gave her in cash $355.50; that a part of that sum, to-wit the sum of $155.00 she paid out to lawyers to prosecute the man who killed her said husband, and she loanded to W.R. Robbins $51.56, ~~and the residue she bought cattle with~~, and turned over to E.S. Flanary Admr. of ssid F.P. Robbins, the sum of $129.75 and the residue she bought cattle with, which were sold by said Flanary for the sum of $127.75.

Your oratrix will further show unto your honor, that when her said husband died he had no property whatever in his own right, but all the personal estate left on the place at the time of his death consisting of hogs, cows, cattle, horses & mules belonged to her; yet through a mutual mistake of both the law and facts connected with the said property, the said Flanary took possession of all the personal property on the premises, and sold the same, he also demanded the notes or choses in action and money, which your oratrix likewise turned over to him; but the entire amount of the same your oratrix does not know, as ssid Flanary has not turned over to the Commissioner of accounts any sale bill or invoice of what did go into his hands.

Your oratrix will further show unto your honor, that at the ~~time~~ time

said property went into said ~~Exixx~~ Flanary's hands she lived in the Crab Orcrard country,far removed from the court house of the county,and from any lawyer;and she was told by old citizens of that neighborhood that she could not sell or dispose of any of the property left on the premises even though it did belong to her so as to pass title to the purchaser;but that ~~xxxx~~ an administrator would have to be appointed by the court and he take charge of the same and sell it,and collect the debts,and when he had done so,and had got the money into his hands,then the money would be paid over to your oratrix;and she being a women of but little experience in such affairs supposed this to be correct and allowed said Flanary to take charge of all her personal property and money,under the belief and under the assurance even from ~~of~~ said Flanary that such was necessary in law and that she would get the money all back she turned over to him,and the net proceeds of the sales of her property and notes. And your oratrix, nor did the said Flanary know but what the lawful course had been taken until recently,when she and he met at Jonesville for the purpose of settleing up, and he paying over to her the money that was in his hands;there they were informed by severl lawyers that the course which had been taken with reference to her property ~~xxxxxx~~ was not required by law,and that the said Flanry could not safely pay over the money in his hands without first having the judgement of the Court in regard to the same.

Your oratrix will further represent unto your honor that the said Franklin P.Robbins left surviving him as his heirs at law and distributees eight little children,to wit = John C.Robbins,R.Minnie Robbins, Margarett E.Robbins,Walter T.Robbins, Ida J.Robbins, Thomas B.Robbins, William A. Robbins,and James P.Robbins;that each of these children are under twenty-one years old,and live with your oratrix,and she has to keep them up the best way she can,

Your oratrix will further show unto your honor that the said Franklin P.Robbins was not indebted in any sum of money to any person at the time of his death;that she has paid his burial expenses,and no one but herself and the said Children have any claim on said fund in said Flanary's hands. ~~but herself~~.

The premises considered, your oratrix is advised that she has rights in said funds now in the hands of said Flanary as administrator of Franklin P. Robbins, which are cgnizable only in a court of equity; that she is entitled to the funds in his hands as such administrator; that owing to the fact that she does not know the amount in said administrators hands, she is entitled to have a commissioner under your honor's direction appointed to accertain what is in his hands, and from what property derived, in the vent said Flanary does not truly answer xxxxx in this cause what is in his hands.

The prayer therefore, of your oratrix is that said E.S.Flanary, as administrator of said F.P.Robbins, John C.Robbins, R.Minnie Robbins, Margarett Robbins, Walter T.Robbins, Ida J.Robbins, Thomas B.Robbins and James P.Robbins be made parties defendants to this bill of complaint, that they be required to answer the same but they neeed not do so on oath, as that is waived; that a guardian ad litem be appointed for said infants to defend for them; that said Flanary be specially required to answer what sum of money is in his hands as such administrator of said Franklin P.Robbins, and from what source derived. And that on a final hearing of this cause your honor decree that said Flanary pay over to her the amount of money in his hands as administrator of said Robbins, instead of paying her only one-third of the same and the reisdue to said children of said F.P.Robbins; but if she should be mistaken in demanding the whole of the sum in his hands, that she be decreed to be paid the sum she got from her father, and the amount for which the cattle sold, ~~for~~ which her money bought, and the money derived from the sale of the corn which was sold, because it was raised off of her lands. And that all other and further and general relief be awarded her that the nature of her cause and good conscience may require. And she will ever pray, etc. May Spa. issue etc.

Pennington Bros S.q.
for Martha Robbins

Martha Robbins

vs } Bill

John C. Robbins et al

To the Hon.H.A.W.Skeen,Judge of the Circuit Court for Lee County:

The separate answer of E.S.Flanary,as administrator of Franklin P.Robbins,decd.,to a bill of complaint filed in this honorable court by Martha Robbins against him and others:

And for answer to said bill or to so much thereof as he is advised that it is material for him to answer,answering he says, That he supposes that it is true that the said complainant is the widow of his decedent;that the said Franklin P.Robbins in his life time made to said Martha a deed to all his property,both real and personal;that your respondent was duly appointed administrator of said Franklin P.Robbins;that as such administrator he took possession of and sold corn,hogs,cattle,horses and mules,etc,which brought the sum of $.....;that there was turned over to him by the said complainant two notes amounting in the aggregate to the sum of $.....; that she turned over to him the sum of $129.75 in cash,aggregating in the aggregate to the sum of $654.49;that at the time these things were turned over to him,he was informed of the existence of said deed of said Franklin P.Robbins,and that thereby possibly by virtue thereof all the property which went into his hands were property of said complaiant;yet he was of the opinion that by law it was his duty to take the same and sell it,collect the money represented by the notes,etc.and the net propceeds after deducting expenses of administration pay the residue over to said complainantand this he so informed the said complainant,and she then with the assurance that she would get back the money turned over to your respondent,and the net proceeds of sales of the property sold,she condented to allow the same sold,believing that the lawful course was being taken in regard to the same,and your respondent believed that also,and did not know any better until in July, 1901, when he and said complainant met at Jonesville to settle up the matter.

Your respondent further supposes it to be true that said Franklin P.Robbins owed no debts or was in any wise liable to any one for money at the time of his death;that his burial expenses has been paid;that there is no liability existing upon his estate;that he left surviving him as his heirs at law and distributees the eight minor childred mentioned and named in said

complainant's bill;and that at the time said complainant filed her bill he had made no settlement with the commissioner of accounts,for he had supposed such was unnecessary,as he was under the belief said complainant was entitled to the fund in his hands,and she being sui juris,he could make a complete settlement with her alone,without the expense of the inter-position of a commissioner of accounts. Your respondent will now show and represnet unto your honor,that since the filing of this suit,he has made a complete settlement of his administration account before the commissioner of accounts of this county,a copy of which he here files as a part of this his answer,and which shows that there is in his hands a net fund of $572.47 which sum,less the amount to pay the taxes thereon for the coming year,he is ready to pay over to said complaiant or to any other person or persons that your honor may decree the same to be paid to.

Now having answered said bill as fully and completely as he is advised that it is material for him to answer,he prays to be hence dismissed with his reasonable costs.And he will evet pray,etc.

E S Flanagy Administrator

John C. Robbins

ads } Answer of E.S. Flamary

Martin Robbins

Martha Robbins complt
vs.
John C. Robbins et al defts.

This cause came this day to be heard upon the bill of the complainant and exhibits filed therewith, the answer of E. S. Flanary in his representative capacity; the answer of John C. Robbins, R. Minnie Robbins, Margarett Robbins Walter T. Robbins, Ida J. Robbins, Thomas B. Robbins and James P. Robbins infants by W. K. Stofobins their guardian ad litem, the deposition of witnesses, and was argued by counsel:

On consideration of all which, and for reasons appearing to the court, ~~the~~ it is adjudged, ordered and decreed that the funds in said E. S. Flanary's hands as administrator of Franklin P. Robbins belongs to and is the property of said complainant, and not the funds,

money and property of the heirs of Franklin P. Robbins. It is therefore adjudged, ordered and decreed that said Complainant recover from said E. S. Flavary the sum of $567.47 with interest thereon from June 3rd, 1901 till paid, but no costs; and on the payment of said sum of money to said Complainant the said Flavary shall for ever be discharged from any liability on his bond as administrator of said F. P. Robbins. And this cause is stricken from the docket.

Martha Robbins
vs
Final
Robbins Co.

Entered on Order Book No 7 Page 1

Entered this Nov. 6th 1901
J. C. W. Blum

To Mr.E.S.Falanry,admr.etc John.C.Robbins, R.Minnie Robbins, Margarett E.Robbins,Walter T.Robbins, Ida J.Robbins, Thomas B.Robbins, James A. Robbins, and William A.Robbins.

You are hereby notified that on the 1st.day of August,1901,at the law office of E.W.Pennington in the town of Pennington Gap,Lee County,Va.,between the hours of 7.A.M.and 6 P.M. of that day,I shall proceed to take the depositions of Joshua Moore and others to be read as evidence in my behalf,in a certain suit in equity depending in the Circuit Court for Lee County Va.,wherein I am plaintiff and you are defendants;and if from any cause the aking of said depositions be not commenced,or if commenced be not completed on that day,the taking thereof will be adjourned from day to day and from time to time and from place to place and between the same hours,until the same is completed.

Yours Very truly,

Martab Robbins, by

Pennington Bros. P.Q.

Martha Robbins

vs } Notice to take Depositions

John C. Robbins et al

I hereby accept legal service of the within notice. This July 22nd 1901

E S Flanary

I hereby accept legal service of the within notice.

W H Hopkins
G. A. Litton

The Deposition of Martha Robbins, James Moore, Elisha Hoover, Joshua Moore, et al taken before me, A.S. Hyatt a N.P. for the county of Lee and state of Virginia, persueant to notice hereto annexed at the law office of C.W. Pennington in the town of Pennington Gap, Lee County, Virginia on the 1st. day of Aug. 1901 to be read as evidence in behalf of Martha Robbins in a certain suit in chancery now depending in the circuit court for Lee county wherein Martha Robbins is plaintiff and Jno. C. Robbins et al. are defendants.

Present Pennington Bros for the plaintiff.

The witness Martha Robbins being duly sworn deposes as follows:

Ques. 1. What was the name of your husband?

Ans. Franklin P. Robbins. He died on the 2nd day of May 1899.

Ques. 2. Before your marriage to said Robbins what was your

maiden name and who was your father?

Ans. My maiden name was Martha Moor. My father's name was Jesse Moor.

Ques. 3. State whether your father gave you any money if so when and how much?

Ans. He gave me $200.00 ~~dollars~~ about the day of June 1897 and $155.20 about the day of June 1898.

Ques. 4 On the 24th day of June 1895 your husband Franklin P. Robbins made you a deed to all his real and personal property a copy of which I here show you. Did you accept the real and personal estate conveyed you by said deed.

Ans. I did.

Ques. 5. What disposition did you make of the money which your father gave you

Ans. I bought or rather my husband for me bought cotton ~~for me~~ with a part of it. He loaned part of it for me. Part

of it I spent in the prosicution of the man who killed my husband $129.75 of it I gave to adm. C. S. Flanary. Out of my money I spent $155 to prosicute Holmes The balance is due me

Ques. 6. There is filed with your bill an inventory of the notes and personal property which went into the hands of said C. S. Flanary as the property of your husband, Now in fact was any of said property and notes etc the rightful property and effects of your husband

Answer. None of the notes and property in said inventory was the property and effects of my husband They were mine.

Ques. 7 Then why did you allow the said Flanary to take said property and notes in his hands as the property of your husband?

Ans. Because it was said that my husband being dead I

could not dispose of it myself. That it would have to be disposed of by an administrator of my husband but that I would get the money which said property would bring, and what might be collected on the notes and also get back my money which I turned over to said administrator. And said adm. also told me this ~~I~~ and on account of this I allowed him to take said property, notes, and money I had asked no lawyer about it and supposed at the time and until right recently I would get the entire amount of said inventory.

Ques. 8. Where was the corn raised that was sold by said administrator?

Ans. All of it was raised on the land which my husband deded me in said ded of June 24, 1895. The hogs, cattle, mules colt and cow were either property which my hus-

land had at the date of said deed or was bought by money given me by my father or the offspring of the property which he had at the date of said deed and conveyed to me thereby or was bought with proceeds off the lands conveyed me by by said deed or the proceeds of the sale of property conveyed me by said deed.

Ques. 6. Are the chiedren of Franklin P. Robbins mentioned in your bill also your chiedren?

Ans. They are my chiedren as well as his.

Ques. 7. Where do your chiedren live? and who supports them?

Ans. They are live with me and I am supporting them as best I can. I own about sixty five

~~Ques. 8.~~ acres of land in the state of cultivation, 2 horses, and three cows, and two hogs. I have also some $300.00 money due me

uncle to the children of Frank Robbins.

Ques. 2. If you know of your father, Jesse Moon, giving his daughter Martha Robbins any money give the amount and date if you can.

Ans. At the request of my father I wrote a check for him payable to said Plaintiff for $13.3.50 on June, 11. 1898. Some time in 1897 I heard my father say he had $200.00 for Martha Robbins which he was going to give her and my best recollection is that after my father told me this I heard Frank Robbins say that Mr Moon had given her the $200.00. My father told me often that he had given her the $200.00 I was looking after his business for him. my father is now dead.

Ques 3. Were you present at the sale made by Mr Flanary.

Ans. I was present

Ques 4. Did you hear discussed Mrs Robbin's rights in the property if so state as near as you can what occurred

Ans.

On that day the question came up as to the ownership of the property. Mrs. Robbins claimed the property under the deed which her husband had made her in his lifetime and the deed was brought out and I saw it then for the first time that I remember of. No lawyer was present or could to tell any advice from about the matter. Finaly it was concluded to sell the property and to turn every thing over to the administrator that would have to be done anyway and Mrs. Robbins would get the money for it.

And further this Deponent saith not.

Franes Moore

Witness claims 50¢ P.d.

Elisha Hoover an other witness of lawful age being duly sworn deposes as follows:

I am 55 years old live in the Crab Orchard country in Pul County and within a mile and

a hoof of the Plaintiff & her husband. Something like a year before Mr. Robbins was killed I heard him say that he had made a deed to the plaintiff of all of his real and personal property* I know the land called for in his deed to her. I am confident that the greater part if not all of the corn sold by the administrator was raised on the land which he had conveyed to his wife if not all of it was so raised. My recollection is that the hogs sold by said administrator were the offspring of two hogs he had at the time the deed was made

And further this deponent sayeth not.

Elihu Hoover
his
mark

Joshua Moor another witness of lawful age being duly sworn deposes as follows.

* The deed here mentioned the same time that his wife father had given her $200.00 at the time and that there was then another $150.00 in the bank for her which her father had given her.

I live in this county and am about 36 or 37 years old and am a farmer, am a brother to the plaintiff and an uncle to Frank Robbins eight children. My recolection is I was at my father's one day in June 1897 and he had me to count out of his money $200.00 for Martha Robbins. He afterwards toed ~~me~~ me he had given it to her. And my impression is Frank Robbins toed me that my father had given her $200.00.

And further this deponent sayeth not.

Joshua Moore

James Smith another witness of lawful age being duly sworn deposes as follows:

I was present at Franklin Robbins's sale and some question came up about the right to sell the property on account of a deed having been made by Frank to his wife. I had seen the deed

before that day. and I told her that I did not believe that a sale could be forced on her and called Harve Young up who was present and Mrs Robbins showed him the deed and he also said that he doubted that a sale was proper and then someone said that they had been informed that a sale would have to be had of the property at any rate. And my impression is that it was E. D. Flanary who said this they also said she would get the money ~~in~~ the property sold for. After this I dont think she made any further objections to a sale being made. The corn that was sold that day was principaly if not all of it raised on the land which he had deeded to Mrs Robbins. within a year before Frank Robbins was killed I heard him say that his wifes father had given her some money and he had loned some of it to W.R. Robbins.

And further this Deponent saeth not

James Smith

Virginia Lee County to wit

I. A. G. Hyatt a Notary Public in and for the County and State aforesaid do hereby certify that the foregoing Depositions of Martha Robbins James Moore Elihu Hoover Joshua Moore and James Smith were taken sworn to, and subscribed before me, in my County aforesaid for the purposes mentioned in the Caption Given under my hand this 1st day of August 1901.

A G Hyatt N.P.

Martha Robbins
No 3 Depositions
John C Robbins et al

Received by mail in good condition and filed August 2nd 1901
A B Muney Clerk

Notary Fee $2.25
Witness .50

We the undersigned appraisers have this appraised being duly sworn by James Smyth J.P. the property and the same has been sold to the highest bidder as follows

One 1 year old colt, M. L. Collier	20	00
1 Gun to Martha Robbins	3	00
1 Saddle to Martha Robbins	8	00
25 bu. Corn to Alexander Robbins	6	25
25 " " " M. L. Collier	7	75
25 " " " H. L. Davis	10	00
25 " " " Alexander Robbins	9	00
Remainder to Martha Robbins at 20 cents per bushel amount to be put in when corn is measured by bushels	7	40
1 Hog to J. C. Robbins	7	25
1 Mule to F. R. Wilson	40	50
1 Cow to Martha Robbins	30	00
2 - 2 yrs. old heifers to H. M. Stewart	86	10
7 Cattle to H. R. Robbins	97	25
1 Cow to J. C. Bailey	30	50
25 bushels of Corn to L. H. Bailey	9	25
25 " " "	9	25
1 note on H. R. Robbins, A. T. Robbins & H. M. Stewart $51.56 due Jany 1st 1899	51	56
One note on S. B. Moon & Jesse Moon of $40.00 due June 10th 1899 and bearing interest from Jan 10th 1899	40	00
One note on Alexander Morris and Nimrod Ely of $51.68 bearing		

Interest from Nov. 21st 1898	57	68
Cash this day turned over to		
Administrator	139	75
Estate	634	49

The above is a true statement of all the property notes cash came into our hands and was turned over to Sd. Fleming as administrator this 8th day of June 1899.

H. R. Robbins
A. L. Robbins } Appraisers
[illegible]

#30/30

Ex Given Flanary admr of
F. P. Robbins
For Taxes for 1899 $8.32
" " " 1900 8.14

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon E. S. Flanary Admr of the estate of Franklin P. Robbins, and John C Robbins, Rebecca M Robbins, Margaret Robbins, Walter T. Robbins, Ida J Robbins, Thomas D Robbins, Wm A Robbins, James P Robbins; Miners under the age 21 years to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held for the said court, on the 3rd Monday in August 1901, to answer a bill in chancery exhibited against them in our said court by Martha Robbins

And have then there this writ. Witness, A. B. Munsey, Clerk of our said Court, at the court-house, the 23rd day of July 1901, and in the 126th year of the Commonwealth. A copy, Teste: A. B. Munsey Clerk.

Clerk.

BOATRIGHT JOB OFFICE, GATE CITY, VA.

I hereby accept legal service of the within Summons.

This July 24, 1901.

E S Flanary

Admonistrator of the estate of F.P.Robbins.

Martha Robbins

vs. } SUBPŒNA IN CHANCERY.

E. S. Flanary Admr etal

P. Bros p. q.

To 2nd August Rules.

Circuit Court.

Martha Robbins

vs } Bill in Chan

John C. Robbins et al

2nd August rules 1901. bill filed Spa Executed on all Defts & G.A.L. filed & D.N.

1st Sept rules D.N. Confirmed & Cause set for hearing

Pltffs Costs

Clerk	$17
Tax	1.50
Shff	50
Atty	15.00
G.A.L	5.00
N.P	2.25
Wits	50
	$28.92